

By: Keough

H.B. No. 99

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the enforcement of certain federal laws regulating
3 firearms, firearm accessories, and firearm ammunition; creating a
4 criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Title 8, Penal Code, is amended by adding Chapter
7 40 to read as follows:

8 CHAPTER 40. THE TEXAS FIREARM PROTECTION ACT

9 Sec. 40.01. DEFINITIONS. In this chapter:

10 (1) "Firearm" has the meaning assigned by Section
11 46.01.

12 (2) "Firearm accessory" means an item that is used in
13 conjunction with or mounted on a firearm but is not essential to the
14 basic function of the firearm. The term includes a detachable
15 firearm magazine.

16 Sec. 40.02. STATE AND LOCAL GOVERNMENT POLICY REGARDING
17 ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) This section applies to:

18 (1) the State of Texas, including an agency,
19 department, commission, bureau, board, office, council, court, or
20 other entity that is in any branch of state government and that is
21 created by the constitution or a statute of this state, including a
22 university system or a system of higher education;

23 (2) the governing body of a municipality, county, or
24 special district or authority;

1 (3) an officer, employee, or other body that is part of
2 a municipality, county, or special district or authority, including
3 a sheriff, municipal police department, municipal attorney, or
4 county attorney; and

5 (4) a district attorney or criminal district attorney.

6 (b) An entity described by Subsection (a) may not adopt a
7 rule, order, ordinance, or policy under which the entity enforces,
8 or by consistent action allows the enforcement of, a federal
9 statute, order, rule, or regulation enacted on or after September
10 1, 2017, that purports to regulate a firearm, a firearm accessory,
11 or firearm ammunition if the statute, order, rule, or regulation
12 imposes a prohibition, restriction, or other regulation, such as a
13 capacity or size limitation, a registration requirement, or a
14 background check, that does not exist under the laws of this state.

15 (c) No entity described by Subsection (a) and no person
16 employed by or otherwise under the direction or control of the
17 entity may enforce or attempt to enforce any federal statute,
18 order, rule, or regulation described by Subsection (b).

19 (d) An entity described by Subsection (a) may not receive
20 state grant funds if the entity adopts a rule, order, ordinance, or
21 policy under which the entity enforces any federal law described by
22 Subsection (b) or, by consistent actions, allows the enforcement of
23 any federal law described by Subsection (b). State grant funds for
24 the entity shall be denied for the fiscal year following the year in
25 which a final judicial determination in an action brought under
26 this section is made that the entity has violated Subsection (b).

27 (e) Any citizen residing in the jurisdiction of an entity

1 described by Subsection (a) may file a complaint with the attorney
2 general if the citizen offers evidence to support an allegation
3 that the entity has adopted a rule, order, ordinance, or policy
4 under which the entity enforces a federal law described by
5 Subsection (b) or that the entity, by consistent actions, allows
6 the enforcement of a law described by Subsection (b). The citizen
7 must include with the complaint any evidence the citizen has in
8 support of the complaint.

9 (f) If the attorney general determines that a complaint
10 filed under Subsection (e) against an entity described by
11 Subsection (a) is valid, to compel the entity's compliance with
12 this section the attorney general may file a petition for a writ of
13 mandamus or apply for other appropriate equitable relief in a
14 district court in Travis County or in a county in which the
15 principal office of the entity is located. The attorney general may
16 recover reasonable expenses incurred in obtaining relief under this
17 subsection, including court costs, reasonable attorney's fees,
18 investigative costs, witness fees, and deposition costs.

19 (g) An appeal of a suit brought under Subsection (f) is
20 governed by the procedures for accelerated appeals in civil cases
21 under the Texas Rules of Appellate Procedure. The appellate court
22 shall render its final order or judgment with the least possible
23 delay.

24 (h) A person commits an offense if, in the person's official
25 capacity as an officer of an entity described by Subsection (a), or
26 as a person employed by or otherwise under the direction or control
27 of the entity, or under color of law, the person knowingly:

1 (1) enforces or attempts to enforce any federal
2 statute, order, rule, or regulation described by Subsection (b); or

3 (2) assists a person acting in an official capacity as
4 an officer, agent, employee, or representative of the federal
5 government or acting under color of federal law in:

6 (A) investigating, prosecuting, detaining,
7 arresting, searching, or seizing related to a federal statute,
8 order, rule, or regulation described by Subsection (b); or

9 (B) conducting, or enforcing a requirement
10 related to conducting, a criminal background check for the
11 intrastate sale or other transfer of a firearm between residents of
12 this state who are not licensed firearms dealers under 18 U.S.C.
13 Section 923.

14 (i) An offense under Subsection (h) is a Class A
15 misdemeanor.

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.